REMARKS/ARGUMENTS

Rejection of Claims 1 to 7, 9 to 16 and 18 under 35 U.S.C. § 102(e)

In the Final Office Action, Examiner rejects pending claims 1 to 7, 9 to 16 and 18 under 35 U.S.C. § 102(e) as being anticipated by US Patent No. 7,188,151 to Kumar et al (hereinafter Kumar).

In response to Examiner's rejection of pending claims 1 to 7, 9 to 16 and 18 under 35 U.S.C. § 102(e), Applicant has amended independent claims 1 and 10. Applicant has also amended dependent claims 2 - 5, 7 – 9, 11 – 14 and 16 – 18 for consistency, clarity, and/or to more particularly point out novel and nonbovious aspects of the claimed invention.

Claim 1 as amended recites the following:

A data acquisition source management method comprising:

generating a source list identifying a set of acquisition sources coupled to a Real-time Multimedia Data On Demand (RTMDOD) server, each acquisition source within the set of acquisition sources for provision of data therefrom;

receiving a list request from a data requestor system in data communication with the RTMDOD server;

providing the source list to the data requestor system in response to the list request;

receiving a data request from the data requestor system at the RTMDOD server, the data request identifying a first acquisition source within the set of acquisition sources from which data is to be provided;

transmitting a data acquisition request from the RTMDOD server to the first acquisition source in response to the data request; and

initiating the transmission of data at the first acquisition source in response to the data acquisition request.

Thus, the method of claim 1 as amended recites generating a source list that identifies a set of acquisition sources coupled to an RTMDOD server; receiving a list request from a data requestor in data communication with the RTMDOD server; providing the source list to the data requestor system in response to the list request; and receiving a data request from the data requestor system at the RTMDOD server. The data request identifies a first acquisition source within the set of acquisition sources.

Claim 1 as amended further recites transmitting a data acquisition request from the RTMDOD server to the first acquisition source; and initiating the transmission of data at the first acquisition source in response to the data acquisition request. Therefore, in accordance with claim 1 as amended, in response to the RTMDOD server's receipt of a data request from the data requestor, the RTMDOD server transmits a data acquisition request to the first acquisition source. In response to the first acquisition source's receipt of the data acquisition request, data transmission is initiated. In other words, the data acquisition request is transmitted from the RTMDOD server in response to the data requestor system's data request, and the transmission of data itself is initiated at the first acquisition source in response to the RTMDOD's data acquisition request.

Applicant respectfully submits that claim 1 as amended is patentably distinct over Kumar.

Examiner asserts that Kumar teaches a method of managing the transmission of data from a patient-side device to a provider-side device in accordance with Applicant's claim 1. Examiner has apparently equated the RTMDOD server, the acquisition source and the data requestor system of Applicant's claim 1 with the engine, patient-side device and provider-side device, respectively, of Kumar. Regardless of Examiner's assertion of any apparent equivalence between particular elements of Applicant's claim 1 and Kumar, Applicant submits that key differences exist between claim 1 as amended and any teaching or suggestion of Kumar.

In particular, Applicant submits that Kumar teaches that data transmission is initiated at, by, and/or from the patient-side device regardless of a request for data issued by the provider-side device. This is evident from the disclosure of Kumar at column 7 lines 33 to 36, where Kumar teaches that *whether or not the provider is currently accessing real-time streamed*

information, the data may be stored in a secured storage device at the central server for later access, replay and/or analysis. Furthermore, given that Kumar's disclosure relates to capture of patient data from, for example, a patient-side biophysical monitoring device (column 8 line 22), it can be readily appreciated that transmission of data from the patient-side device is initiated in response to the *patient's* creation of a session. Beginning at column 8, line 20, Kumar specifically states "a patient is connected to a patient-side biophysical monitoring device…FIG. 2 depicts an illustrative login screen 200, from which the *patient* then logs on to a website…thereby creating a session." Kumar additionally teaches that the *patient* can create a session by selecting button 302. Regardless of whether a session is created in response to patient log on, or patient selection of a button 302, Kumar teaches that the creation of a session, in which biophysical data is captured by the patient-side device and transmitted, is initiated in response to patient input.

As Kumar is directed toward the medical evaluation of patients, the transmission of patient biophysical monitoring data (which Kumar refers to in column 8, line 15 as "vital patient information"), regardless of whether the patient's provider is online, is necessary to facilitate proper medical analysis. Therefore according to Kumar, request of data from the provider-side device is immaterial in relation to the initiation of biophysical data transmission from the patient-side device. Additionally, it is disclosed in Column 8 lines 48 to 50 of Kumar that the health care provider is notified that a session is in progress, such as via a flashing "live" button 502, and the provider can view streaming and/or saved data relating to the patient by selecting button 504. Thus, any request of data from the provider-side device simply allows the health care provider to choose whether to view data from the patient-side device that has already been transmitted or is already undergoing transmission to the engine, further teaching that the initiation of data transmission from the patient-side device occurs regardless of a request for the data from the patient-side device by the provider-side device. Although Kumar teaches in Column 8 lines 48 to 50 that the health care provider is notified (such as via a flashing "live" button 502) that a session is in progress (i.e., the session is *already occurring)* and the provider can view streaming and/or saved data relating to the patient by selecting button 504, Kumar teaches that such

selection by the provider results only in the provider's viewing of a data stream for which data transmission from the patient-side device is or was *already in progress*.

In contrast, amended claim 1 specifically recites:

> receiving a data request from the data requestor system at the RTMDOD server, the data request identifying a first acquisition source within the set of acquisition sources from which data is to be provided;
>
> *transmitting a data acquisition request from the RTMDOD server to the first acquisition source* in response to the data request; and
>
> *initiating the transmission of data at the first acquisition source in response to the data acquisition request.*

The transmission of data is initiated at the first acquisition source in response to the data acquisition request from the RTMDOD server. Data is transmitted from the first acquisition source following its receipt of the RTMDOD server's data acquisition request. Thus Kumar, as presented above, does not teach or intimate, in contrast to amended claim 1, that the transmission of data is initiated at the first acquisition source in response to the data acquisition request from the RTMDOD server.

Claim 10 as amended recites the following language:

A data acquisition source management system comprising:

> means for generating a source list identifying a set of acquisition sources coupled to a Real-time Multimedia Data On Demand (RTMDOD) server, each acquisition source within the set of acquisition sources for provision of data therefrom;
>
> means for receiving a list request from the data requestor system in data communication with the RTMDOD server;
>
> means for providing the source list to the data requestor system in response to the list request;

means for receiving a data request from the data requestor system at the RTMDOD server, the data request identifying a first acquisition source within the set of acquisition sources from which data is to be provided;

means for transmitting a data acquisition request from the RTMDOD server to the first acquisition source in response to the data request; and

means for initiating the transmission of data at the first acquisition source in response to the data acquisition request.

Remarks made above in relation to claim 1 as amended analogously apply to claim 10 as amended.

Applicant respectfully reiterates that as recited in amended claims 1 and 10, data transmission is initiated at the first acquisition source in response to the data acquisition request which is transmitted from the RTMDOD server to the first acquisition source. Kumar fails to teach or suggest the initiation of data transmission in the manner recited in claims 1 and 10 as amended, and thus Applicant respectfully submits that claims 1 and 10 as amended are patentably distinct over Kumar.

Accordingly, Examiner's rejections under 35 U.S.C. §102(e) of claims 1 and 10, Applicant submits that these rejections are consequently disposed of and claims 1 and 10 as amended are in condition for allowance. Applicant submits that other 35 U.S.C. §102(e) rejections for dependent claims 2 to 7, 9, 11 to 16 and 18 are consequently disposed of and therefore such dependent claims are in condition for allowance. Applicant respectfully requests withdrawal of Examiner's rejections under 35 U.S.C. § 102(e).

Rejection of Claims 8 and 17 under 35 U.S.C. § 103(a)

In the Final Office Action, Examiner rejects pending claims 8 and 17 under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 7,188,151 to Kumar et al (Kumar).

Examiner stated that Kumar teaches communications between the engine and the provider, and it would have been obvious to provide an error message to the provider when the provider improperly accesses the website provided by the engine.

Applicant respectfully points out that claim 8 is dependent upon claim 2, which itself is dependent upon claim 1. Relative to claim 8, Applicant has amended claim 8 for purposes of clarity. Claim 8 as amended now recites the following language:

> providing an error message to the data requestor system by the RTMDOD server in response to the data request *in the event that a data transmission error occurs following transmitting the data acquisition request from the RTMDOD server to the first acquisition source.*

As previously detailed, Kumar fails to teach or suggest a method in accordance with claim 1 as amended. More particularly, Kumar fails to teach or suggest the transmission of a data acquisition request in accordance with the specific limitations now recited in amended claim 1. Kumar thus fails to teach or suggest the provision of an error message to a provider-side device following the issuance of any type of data acquisition request from an engine to a patient-side device.

The Examiner specifically asserts that it would have been obvious to provide an error message to the provider when the provider improperly accesses the website provided by the engine. Applicant respectfully points out that the provision of an error message when the provider improperly accesses a website provided by the engine is not equivalent to, nor suggestive of, nor indicative of any need for the provision of an error message *in the event that a data transmission error occurs following transmitting the data acquisition request from the RTMDOD server to the first acquisition source* as recited in claim 8 as amended. Applicant submits that claim 8 as amended is patentably distinct from and nonobvious over Kumar.

Relative to Examiner's rejection of claim 17 under 35 U.S.C. § 103(a), Applicant submits that the foregoing remarks in relation to claim 8 also apply to claim 17 as now amended.

Applicant therefore submits that claims 8 and 17 as amended are now in condition for allowance, and respectfully requests withdrawal of their rejection under 35 U.S.C. § 103(a).

New Claims

Applicant has added new claims 19 - 24, which are fully supported by the originally filed specification and figures. Applicant submits that new claims 19 - 24 are novel as well as nonobvious over Kumar.

Conclusion

In accordance with amendments to independent claims 1 and 10 and the foregoing remarks, Applicant requests withdrawal of rejections of claims 1 to 7, 9 to 16 and 18 under 35 U.S.C. § 102(e) and rejections of claims 8 and 17 under 35 U.S.C. §103(a). Examiner reconsideration and issuance of a Notice of Allowance are hereby respectfully requested. It is believed that no extension of time or fees is required, beyond those noted or that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Conley Rose, P.C.'s Deposit Account Number 03-2769/2085-04000.

Respectfully submitted,

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